

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1307 be amended to read as follows:

- 1 Page 4, between lines 30 and 31, begin a new paragraph and insert:
- 2 "SECTION 4. IC 22-3-2-2.5 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this
- 4 section, "school to work student" refers to a student participating in
- 5 on-the-job training under the federal School to Work Opportunities Act
- 6 (20 U.S.C. 6101 et seq.).
- 7 (b) Except as provided in IC 22-3-7-2.5, a school to work student is
- 8 entitled to the following compensation and benefits under this article:
- 9 (1) Medical benefits under IC 22-3-2 through IC 22-3-6.
- 10 (2) Permanent partial impairment compensation under
- 11 IC 22-3-3-10. Permanent partial impairment compensation for a
- 12 school to work student shall be paid in a lump sum upon
- 13 agreement or final award.
- 14 (3) In the case that death results from the injury:
- 15 (A) death benefits in a lump sum amount of one hundred
- 16 seventy-five thousand dollars (\$175,000), payable upon
- 17 agreement or final award to any dependents of the student
- 18 under IC 22-3-3-18 through IC 22-3-3-20, or, if the student
- 19 has no dependents, to the student's parents; and
- 20 (B) burial compensation under IC 22-3-3-21.
- 21 (c) For the sole purpose of modifying an award under IC 22-3-3-27,
- 22 a school to work student's average weekly wage is presumed to be equal
- 23 to the federal minimum wage.
- 24 (d) A school to work student is not entitled to the following
- 25 compensation under this article:
- 26 (1) Temporary total disability compensation under IC 22-3-3-8.
- 27 (2) Temporary partial disability compensation under IC 22-3-3-9.
- 28 (e) Except for remedies available under IC 5-2-6.1 **and IC 22-3-13,**
- 29 recovery under subsection (b) is the exclusive right and remedy for:

1 (1) a school to work student; and
 2 (2) the personal representatives, dependents, or next of kin, at
 3 common law or otherwise, of a school to work student;
 4 on account of personal injury or death by accident arising out of and in
 5 the course of school to work employment.

6 SECTION 5. IC 22-3-2-6 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. **Except for rights**
 8 **and remedies granted under IC 22-3-13**, the rights and remedies
 9 granted to an employee subject to IC 22-3-2 through IC 22-3-6 on
 10 account of personal injury or death by accident shall exclude all other
 11 rights and remedies of such employee, the employee's personal
 12 representatives, dependents, or next of kin, at common law or otherwise,
 13 on account of such injury or death, except for remedies available under
 14 IC 5-2-6.1."

15 Page 28, between lines 30 and 31, begin a new paragraph and insert:
 16 "SECTION 10. IC 22-3-6-1, AS AMENDED BY P.L.201-2005,
 17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2006]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the
 19 context otherwise requires:

20 (a) "Employer" includes the state and any political subdivision, any
 21 municipal corporation within the state, any individual or the legal
 22 representative of a deceased individual, firm, association, limited
 23 liability company, or corporation or the receiver or trustee of the same,
 24 using the services of another for pay. A parent corporation and its
 25 subsidiaries shall each be considered joint employers of the
 26 corporation's, the parent's, or the subsidiaries' employees for purposes
 27 of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of
 28 employees shall each be considered joint employers of the employees
 29 provided by the lessor to the lessee for purposes of IC 22-3-2-6 and
 30 IC 22-3-3-31. If the employer is insured, the term includes the
 31 employer's insurer so far as applicable. However, the inclusion of an
 32 employer's insurer within this definition does not allow an employer's
 33 insurer to avoid payment for services rendered to an employee with the
 34 approval of the employer. The term also includes an employer that
 35 provides on-the-job training under the federal School to Work
 36 Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in
 37 IC 22-3-2-2.5. The term does not include a nonprofit corporation that
 38 is recognized as tax exempt under Section 501(c)(3) of the Internal
 39 Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the
 40 corporation enters into an independent contractor agreement with a
 41 person for the performance of youth coaching services on a part-time
 42 basis.

43 (b) "Employee" means every person, including a minor, in the service
 44 of another, under any contract of hire or apprenticeship, written or
 45 implied, except one whose employment is both casual and not in the
 46 usual course of the trade, business, occupation, or profession of the

1 employer.

2 (1) An executive officer elected or appointed and empowered in
3 accordance with the charter and bylaws of a corporation, other
4 than a municipal corporation or governmental subdivision or a
5 charitable, religious, educational, or other nonprofit corporation,
6 is an employee of the corporation under IC 22-3-2 through
7 IC 22-3-6.

8 (2) An executive officer of a municipal corporation or other
9 governmental subdivision or of a charitable, religious, educational,
10 or other nonprofit corporation may, notwithstanding any other
11 provision of IC 22-3-2 through IC 22-3-6, be brought within the
12 coverage of its insurance contract by the corporation by
13 specifically including the executive officer in the contract of
14 insurance. The election to bring the executive officer within the
15 coverage shall continue for the period the contract of insurance is
16 in effect, and during this period, the executive officers thus
17 brought within the coverage of the insurance contract are
18 employees of the corporation under IC 22-3-2 through IC 22-3-6.

19 (3) Any reference to an employee who has been injured, when the
20 employee is dead, also includes the employee's legal
21 representatives, dependents, and other persons to whom
22 compensation may be payable.

23 (4) An owner of a sole proprietorship may elect to include the
24 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
25 owner is actually engaged in the proprietorship business. If the
26 owner makes this election, the owner must serve upon the owner's
27 insurance carrier and upon the board written notice of the election.
28 No owner of a sole proprietorship may be considered an employee
29 under IC 22-3-2 through IC 22-3-6 until the notice has been
30 received. If the owner of a sole proprietorship is an independent
31 contractor in the construction trades and does not make the
32 election provided under this subdivision, the owner must obtain an
33 affidavit of exemption under IC 22-3-2-14.5.

34 (5) A partner in a partnership may elect to include the partner as
35 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
36 actually engaged in the partnership business. If a partner makes
37 this election, the partner must serve upon the partner's insurance
38 carrier and upon the board written notice of the election. No
39 partner may be considered an employee under IC 22-3-2 through
40 IC 22-3-6 until the notice has been received. If a partner in a
41 partnership is an independent contractor in the construction trades
42 and does not make the election provided under this subdivision,
43 the partner must obtain an affidavit of exemption under
44 IC 22-3-2-14.5.

45 (6) Real estate professionals are not employees under IC 22-3-2
46 through IC 22-3-6 if:

- 1 (A) they are licensed real estate agents;
- 2 (B) substantially all their remuneration is directly related to
- 3 sales volume and not the number of hours worked; and
- 4 (C) they have written agreements with real estate brokers
- 5 stating that they are not to be treated as employees for tax
- 6 purposes.
- 7 (7) A person is an independent contractor in the construction
- 8 trades and not an employee under IC 22-3-2 through IC 22-3-6 if
- 9 the person is an independent contractor under the guidelines of the
- 10 United States Internal Revenue Service.
- 11 (8) An owner-operator that provides a motor vehicle and the
- 12 services of a driver under a written contract that is subject to
- 13 IC 8-2.1-24-23, 45 IAC 16-1-13, or ~~49 CFR 1057~~, **49 CFR 376**
- 14 to a motor carrier is not an employee of the motor carrier for
- 15 purposes of IC 22-3-2 through IC 22-3-6. The owner-operator
- 16 may elect to be covered and have the owner-operator's drivers
- 17 covered under a worker's compensation insurance policy or
- 18 authorized self-insurance that insures the motor carrier if the
- 19 owner-operator pays the premiums as requested by the motor
- 20 carrier. An election by an owner-operator under this subdivision
- 21 does not terminate the independent contractor status of the
- 22 owner-operator for any purpose other than the purpose of this
- 23 subdivision.
- 24 (9) A member or manager in a limited liability company may elect
- 25 to include the member or manager as an employee under IC 22-3-2
- 26 through IC 22-3-6 if the member or manager is actually engaged
- 27 in the limited liability company business. If a member or manager
- 28 makes this election, the member or manager must serve upon the
- 29 member's or manager's insurance carrier and upon the board
- 30 written notice of the election. A member or manager may not be
- 31 considered an employee under IC 22-3-2 through IC 22-3-6 until
- 32 the notice has been received.
- 33 (10) An unpaid participant under the federal School to Work
- 34 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
- 35 extent set forth in IC 22-3-2-2.5.
- 36 (11) A person who enters into an independent contractor
- 37 agreement with a nonprofit corporation that is recognized as tax
- 38 exempt under Section 501(c)(3) of the Internal Revenue Code (as
- 39 defined in IC 6-3-1-11(a)) to perform youth coaching services on
- 40 a part-time basis is not an employee for purposes of IC 22-3-2
- 41 through IC 22-3-6.
- 42 (c) "Minor" means an individual who has not reached seventeen (17)
- 43 years of age.
- 44 (1) Unless otherwise provided in this subsection, a minor
- 45 employee shall be considered as being of full age for all purposes
- 46 of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-33-3-35, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-37-2-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) Except for rights and remedies granted under IC 22-3-13, the rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the

casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-37-2-7, the following formula shall be used. Calculate the product of:

- (A) the student employee's hourly wage rate; multiplied by
- (B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

- (1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.
- (2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.
- (3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.
- (4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.
- (5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.
- (6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.
- (7) The geographic service area served by zip codes with the first

three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products."

Page 30, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 12. IC 22-3-7-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

(b) A school to work student is entitled to the following compensation and benefits under this chapter:

(1) Medical benefits.

(2) Permanent partial impairment compensation under section 16 of this chapter. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), payable upon agreement or final award to any dependents of the student under sections 11 through 14 of this chapter, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under section 15 of this chapter.

(c) For the sole purpose of modifying an award under section 27 of this chapter, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this chapter:

(1) Temporary total disability compensation under section 16 of this chapter.

(2) Temporary partial disability compensation under section 19 of this chapter.

(e) Except for remedies available under IC 5-2-6.1 **and IC 22-3-13**, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of disablement or death by occupational disease arising out of and in the course of school to work employment.

SECTION 13. IC 22-3-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. **Except for rights and remedies granted under IC 22-3-13**, the rights and remedies granted under this chapter to an employee subject to this chapter on account of disablement or death by occupational disease arising out of and in the course of the employment shall exclude all other rights and remedies of such employee, his personal representatives, dependents, or next of kin, at common law or otherwise, on account of such disablement or death.

SECTION 14. IC 22-3-7-9, AS AMENDED BY P.L.201-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

- (1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes the employee's legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include the owner as an employee under this chapter if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include the partner as an employee under this chapter if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under section 34.5 of this chapter.

(4) Real estate professionals are not employees under this chapter if:

- (A) they are licensed real estate agents;
- (B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and
- (C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work

1 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
 2 extent set forth under section 2.5 of this chapter.

3 (8) A person who enters into an independent contractor agreement
 4 with a nonprofit corporation that is recognized as tax exempt
 5 under Section 501(c)(3) of the Internal Revenue Code (as defined
 6 in IC 6-3-1-11(a)) to perform youth coaching services on a
 7 part-time basis is not an employee for purposes of this chapter.

8 (c) As used in this chapter, "minor" means an individual who has not
 9 reached seventeen (17) years of age. A minor employee shall be
 10 considered as being of full age for all purposes of this chapter.
 11 However, if the employee is a minor who, at the time of the last
 12 exposure, is employed, required, suffered, or permitted to work in
 13 violation of the child labor laws of this state, the amount of
 14 compensation and death benefits, as provided in this chapter, shall be
 15 double the amount which would otherwise be recoverable. The
 16 insurance carrier shall be liable on its policy for one-half (1/2) of the
 17 compensation or benefits that may be payable on account of the
 18 disability or death of the minor, and the employer shall be wholly liable
 19 for the other one-half (1/2) of the compensation or benefits. If the
 20 employee is a minor who is not less than sixteen (16) years of age and
 21 who has not reached seventeen (17) years of age, and who at the time
 22 of the last exposure is employed, suffered, or permitted to work at any
 23 occupation which is not prohibited by law, the provisions of this
 24 subsection prescribing double the amount otherwise recoverable do not
 25 apply. **Except for rights and remedies granted under IC 22-3-13,**
 26 **the rights and remedies granted to a minor under this chapter on account**
 27 **of disease shall exclude all rights and remedies of the minor, his the**
 28 **minor's** parents, **his the minor's** personal representatives, dependents,
 29 or next of kin at common law, statutory or otherwise, on account of any
 30 disease.

31 (d) This chapter does not apply to casual laborers as defined in
 32 subsection (b), nor to farm or agricultural employees, nor to household
 33 employees, nor to railroad employees engaged in train service as
 34 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or
 35 foremen in charge of yard engines and helpers assigned thereto, nor to
 36 their employers with respect to these employees. Also, this chapter does
 37 not apply to employees or their employers with respect to employments
 38 in which the laws of the United States provide for compensation or
 39 liability for injury to the health, disability, or death by reason of
 40 diseases suffered by these employees.

41 (e) As used in this chapter, "disablement" means the event of
 42 becoming disabled from earning full wages at the work in which the
 43 employee was engaged when last exposed to the hazards of the
 44 occupational disease by the employer from whom the employee claims
 45 compensation or equal wages in other suitable employment, and
 46 "disability" means the state of being so incapacitated.

1 (f) For the purposes of this chapter, no compensation shall be
2 payable for or on account of any occupational diseases unless
3 disablement, as defined in subsection (e), occurs within two (2) years
4 after the last day of the last exposure to the hazards of the disease
5 except for the following:

6 (1) In all cases of occupational diseases caused by the inhalation
7 of silica dust or coal dust, no compensation shall be payable unless
8 disablement, as defined in subsection (e), occurs within three (3)
9 years after the last day of the last exposure to the hazards of the
10 disease.

11 (2) In all cases of occupational disease caused by the exposure to
12 radiation, no compensation shall be payable unless disablement,
13 as defined in subsection (e), occurs within two (2) years from the
14 date on which the employee had knowledge of the nature of the
15 employee's occupational disease or, by exercise of reasonable
16 diligence, should have known of the existence of such disease and
17 its causal relationship to the employee's employment.

18 (3) In all cases of occupational diseases caused by the inhalation
19 of asbestos dust, no compensation shall be payable unless
20 disablement, as defined in subsection (e), occurs within three (3)
21 years after the last day of the last exposure to the hazards of the
22 disease if the last day of the last exposure was before July 1, 1985.

23 (4) In all cases of occupational disease caused by the inhalation of
24 asbestos dust in which the last date of the last exposure occurs on
25 or after July 1, 1985, and before July 1, 1988, no compensation
26 shall be payable unless disablement, as defined in subsection (e),
27 occurs within twenty (20) years after the last day of the last
28 exposure.

29 (5) In all cases of occupational disease caused by the inhalation of
30 asbestos dust in which the last date of the last exposure occurs on
31 or after July 1, 1988, no compensation shall be payable unless
32 disablement (as defined in subsection (e)) occurs within thirty-five
33 (35) years after the last day of the last exposure.

34 (g) For the purposes of this chapter, no compensation shall be
35 payable for or on account of death resulting from any occupational
36 disease unless death occurs within two (2) years after the date of
37 disablement. However, this subsection does not bar compensation for
38 death:

39 (1) where death occurs during the pendency of a claim filed by an
40 employee within two (2) years after the date of disablement and
41 which claim has not resulted in a decision or has resulted in a
42 decision which is in process of review or appeal; or

43 (2) where, by agreement filed or decision rendered, a compensable
44 period of disability has been fixed and death occurs within two (2)
45 years after the end of such fixed period, but in no event later than
46 three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products."

Page 57, between lines 18 and 19, begin a new paragraph and insert:
"SECTION 21. IC 22-3-13 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2006]:

Chapter 13. Private Cause of Action

Sec. 1. As used in this chapter, "immediate family" means the:

(1) parents of an individual without dependents;

(2) spouse of an individual; and

(3) dependent children of an individual.

Sec. 2. If the death of an individual is caused by a violation of a

1 federal or state law:

2 (1) governing worker or workplace safety; and

3 (2) committed by the individual's employer;

4 a cause of action may be brought against the employer under this
5 chapter.

6 Sec. 3. A cause of action may be brought under this chapter only
7 by the following:

8 (1) A member of the deceased individual's immediate family.

9 (2) If the deceased individual does not have any immediate
10 family, the personal representative of the deceased
11 individual's estate.

12 Sec. 4. A person who may bring an action under this chapter
13 may recover only the following damages:

14 (1) Not more than four (4) times the total amount of the death
15 benefit:

16 (A) that is required to be paid to the deceased individual's
17 dependents or parents under this article; or

18 (B) if the deceased individual does not have any
19 dependents or parents, that would be required to be paid
20 under this article if the deceased individual had dependents
21 or parents that were required to be paid under this article.

22 (2) Reasonable attorney's fees.

23 (3) Court costs.

24 SECTION 22. [EFFECTIVE JULY 1, 2006] IC 22-3-13, as added
25 by this act, applies only to a cause of action that accrues after June
26 30, 2006."

27 Renumber all SECTIONS consecutively.

(Reference is to EHB 1307 as printed February 17, 2006.)

Senator BOWSER

